

REMARKS

In the Office Action dated December 14, 2009, claims 25, 26, 42, 43, 45, 74, 79, 81, 83, 85, 87, 89, 91, 93, 95, 98 and 99 were rejected. Claims 23, 24, 40, 41, 44, 73, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 97, and 100 to 153 were withdrawn from consideration by the Examiner.

Claim Amendments

Upon entry of the amended claim set, claims 25, 26, 42, 43, 45, 74, 79, 81, 83, 85, 87, 89, 91, 93, 95, 98, 99, and 154 to 157 will be pending. Claims 23, 24, 40, 41, 44, 73, 78, 80, 82, 84, 86, 88, 90, 92, 94, 96, 97, and 100 to 153 have been withdrawn from consideration by the Examiner. New claims 154 to 157 have been added to claim additional embodiments of the invention. Specifically, new claims 154 to 157 are directed to further embodiments of the compounds as set forth in claim 25. Support for the new claims can be found throughout the specification as filed, for example, in the examples of the present application. Applicant asserts that no new matter has been added by way of these amendments.

Claim 25, currently on file, has been amended to remove "N" (i.e. nitrogen) from the choice of substituents in the definition of x, y, z, r, x', y', z', and r' and to delete "halogen" from the list of substituents in the definition of R13 and R17. For clarity, claim 25 was also amended to remove the terms "selected from" from the definitions of R4, R5, R6, R7, R8 and R9 and R11, R12, R14, R15, R16 and R18 and to delete a redundant occurrence of the term "alkenyl". Support for these amendments is found throughout the specification as filed, for example, in the examples of the present application.

In view of the amendment to claim 25, claim 26 has been amended such that it further defines the substituents for R11 to R17. Support for this amendment can be found throughout the specification as filed, specifically, in the examples of the present application.

Rejection under 35 USC §102

The Examiner has rejected claims 25 and 26 under 35 U.S.C. §102(b) as being

MBM File No. 335-148US
McAndrews Ref. 16526US01
U.S Patent Application No. 10/525,690

anticipated by Registry Number 416872-13-4 from the STN database. As indicated above, the Applicant has amended claim 25, currently on file, to delete "halogen" from the list of substituents in the definition of R13 and R17. The Applicant notes that the compound identified in Registry Number 416872-13-4 does not fall within the scope of amended claim 25.

The Applicant submits that the subject matter of amended claim 25 and claims dependent thereon, including claim 26, is novel over Registry Number 416872-13-4 and, therefore, respectfully requests that the Examiner withdraw this objection.

Double Patenting

The Examiner has provisionally rejected claims 25, 26, 42, 43, 45, 74, 79, 81, 83, 85, 87, 89, 91, 93, 95, 98 and 99 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 21, 22 and 24 to 27 of copending Application No. 10/579,149. The Applicant respectfully requests that this rejection be held in abeyance until an indication that the claims are otherwise allowable. Applicant, at that time, will either address this rejection or file a terminal disclaimer.

Applicant requests reconsideration of the merits of the present application. In the event that any fees are required for the filing of this document, the Commissioner is authorized to charge our Deposit Account No. 13-0017 in the name of McAndrews, Held & Malloy, Ltd.

Respectfully submitted

Date: March 15, 2010

McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, Illinois 60661
Phone: 312-775-8000
Facsimile: 312-775-8100

/Michael B. Harlin/
Michael B. Harlin
Reg. No. 43,658
Attorney for Applicant